

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Request of)	DOCKET TG-121596
)	
HAROLD LEMAY ENTERPRISES, INC., DBA CITY SANITARY, JOE'S REFUSE, WHITE PASS GARBAGE, G-98)	ORDER 01
)	
Petitioner,)	
)	ORDER GRANTING LESS THAN
For Less Than Statutory Notice in)	STATUTORY NOTICE; ALLOWING
Connection with Tariff Revisions)	TARIFF REVISIONS
.....)	

BACKGROUND

- 1 On October 2, 2012, Harold LeMay Enterprises, Inc., dba City Sanitary, Joe's Refuse, White Pass Garbage, (LeMay or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff No. 9.3, designated as 28th revised page number 1 and 3rd revised page number 5. The purpose of the filing is to increase the city of Toledo tax rate in Item 5 from five percent to six percent.
- 2 RCW 81.28.050 and WAC 480-70-266 require forty-five days' notice to the Commission prior to the effective date of the tariff. The tariff sheets bear an effective date of November 16, 2012. This date recognizes statutory notice as required. LeMay requests, however, less than statutory notice as permitted in WAC 480-70-276, and that the revisions become effective November 1, 2012. LeMay requests less than statutory notice because the city of Toledo increased the city tax rate to 6 percent effective October 1, 2012, but only notified the company on September 27, 2012. Customers will not be assessed the new tax rate for October.
- 3 WAC 480-70-271 requires solid waste companies to provide each affected customer a notice at least thirty days before the requested effective date when a solid waste company proposes to notify customers on their first billings reflecting the new tax rate. Granting LeMay's less than statutory notice request also requires an exemption from WAC 480-70-271. For the same reason(s) identified by LeMay for seeking less than statutory notice, the Company seeks an exemption from customer notice requirements.

4 These tariff revisions are reasonable because the city tax on solid waste collection was imposed by the City of Toledo in ordinance 709 dated September 17, 2012. Taxes imposed by cities on solid waste collection companies are passed through to customers.

5 Since the proposed tariff revisions appear to be fair, just, reasonable and sufficient, and less than statutory notice is consistent with the public interest, it is appropriate that the Commission grant LeMay's request with an effective date of November 1, 2012.

FINDINGS AND CONCLUSIONS

- 6 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, regulations, practices, accounts and affiliated interests of public service companies, including solid waste companies. RCW 80.01.040, RCW 81.01, RCW 81.04, RCW 81.16, RCW 81.28 and RCW 81.77.
- 7 (2) Lemay is a solid waste company and a public service company subject to Commission jurisdiction.
- 8 (3) LeMay is subject to RCW 81.28.050 and WAC 480-70-266, which require solid waste companies to file changes in any rate or charge with forty-five days' notice. For good cause shown, however, the Commission may allow changes without requiring forty-five days' notice by order specifying the changes to be made and the time when it shall take effect.
See also WAC 480-70-276.
- 9 (4) Under WAC 480-70-051 the Commission may grant an exemption from the provisions of any rule in WAC 480-70, if consistent with the public interest, the purposes underlying regulation and applicable statutes.
See also WAC 480-07-110.
- 10 (5) Staff has reviewed LeMay's request in Docket TG-121596 and recommends the Commission grant the Company's less than statutory notice request. Staff further recommends the Commission grant an exemption from WAC 480-70-271 and require LeMay to notify customers on their first billing reflecting the new tax rate.

- 11 (6) This matter came before the Commission at its regularly scheduled meeting on October 25, 2012.
- 12 (7) After reviewing LeMay's proposed tariff revisions filed on October 2, 2012, in this docket and giving due consideration to all relevant matters and for good cause shown, the Commission finds the proposed tariff revisions should become effective November 1, 2012.
- 13 (8) The Commission also finds LeMay should be granted an exemption to the customer notice requirements.

ORDER

THE COMMISSION ORDERS:

- 14 (1) Harold LeMay Enterprises, Inc., dba City Sanitary, Joe's Refuse, White Pass Garbage's request for less than statutory notice is granted.
- 15 (2) After the effective date of this Order, Harold LeMay Enterprises, Inc., dba City Sanitary, Joe's Refuse, White Pass Garbage is granted an exemption from WAC 480-70-271, which requires notice to customers. Harold LeMay Enterprises, Inc., dba City Sanitary, Joe's Refuse, White Pass Garbage must provide notice to customers on the customer's first bill reflecting the new tax rate.
- 16 (3) The tariff revisions filed by Harold LeMay Enterprises, Inc., dba City Sanitary, Joe's Refuse, White Pass Garbage on October 2, 2012, will be effective on November 1, 2012.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective October 25, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary